United Nations **AT**

Administrative Tribunal

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ADMINISTRATIVE TRIBUNAL

Judgement No. 1008

Case No. 1047: LOH

Against: The Secretary-General of the United Nations

THE UNITED NATIONS ADMINISTRATIVE TRIBUNAL,

Composed of: Mr. Julio Barboza, First Vice-President, presiding; Mr. Kevin Haugh, Second Vice-President; Mr. Omer Yousif Bireedo;

Whereas at the request of Keng Aun Loh, a former staff member of the United Nations, the President of the Tribunal, with the agreement of the Respondent, extended to 31 July and 31 October 1998 the time-limit for the filing of an application with the Tribunal;

Whereas, on 27 October 1998, the Applicant filed an Application requesting the Tribunal:

> "(a) ...[T]o observe that the Joint Appeals Board in its Report ... had decisively established the failure of the Secretary-General to abide by the procedures on promotion of staff members laid down by the General Assembly, the Secretary-General and the jurisprudence of the Administrative Tribunal, when the Secretary-General implemented the promotion of another staff member (...) to the D-1 ... thereby causing direct and substantial damage to the career of the Applicant. The Tribunal will also note that the Secretary-General '... acknowledges the irregularities which occurred in the filling of the posts in issue ... He has decided to accept the recommendation of the Panel regarding compensation ...' (...)

(b) ... [T]o redress the ineffectual, insufficient and inappropriate compensation that the Joint Appeals Board had recommended in its Report ...

(c) The Applicant respectfully further requests the Tribunal to order the Secretary-General:

(1) To promote the Applicant to the post [in question] retroactive to October 1994 ...

(2) In the event that the Secretary-General decides to pay compensation rather than effect retroactive promotion to the D-1 level, the Applicant requests the Tribunal to fix compensation commensurate to the damages caused to the Applicant's career and pension ... Interest is to be added to the compensation of the total sum for the period until the judgement of the Tribunal is delivered.

(d) ...[T]o compensate him six months base salary for the denial of due process and for the failure to observe the binding legal obligation to give him priority consideration for promotion in a fair and full manner ...

(e) ...[T]o find the Organization culpable for the continued harassing treatment meted out to him from September 1995 and more particularly from March 1996 until he retired ... The Tribunal is requested to award the Applicant seven months base salary corresponding to the period of extreme harassment.

(f) The Applicant, mindful of the fact that actions and decisions taken by senior officials in the name of the Secretary-General might in fact have been taken without the latter having been given all the facts of the case, respectfully requests the Tribunal to invoke the financial rule 114.1 and staff rule 112.3 so that such officials be held accountable for their actions and decision which they knew were contrary to the proper management and administration of resources, and so that the amount of the compensation paid to the Applicant may eventually be recovered from those officials ...

(g) ... [T]o order the Secretary-General to issue an amendment to the Official document of the General Assembly ***List of Staff of the United Nations Secretariat*** as of 31 August 1996, Report of the Secretary-General, ST/ADM/R.49, wherein the name of the Applicant was deliberately omitted even though he was still a staff member until 30 September 1996. [...]

(h) ...[T]o order the Respondent to produce ... documents ..."

Whereas the Respondent filed his Answer on 29 August 2000;

Whereas, on 29 September 2000, the Applicant submitted Written Observations as well as an amended plea which read as follows:

> "**Plea (d) to be amended as follows:**
>
> ... Consequently, the Applicant respectfully requests the Tribunal to order the Secretary-General to compensate him **proportionately with respect to the Judgement No. 914, paras. VIII, IX and X of the judgement of the Administrative Tribunal** for the denial of due process and for the failure to observe the binding legal obligation to give him priority consideration for promotion in a fair and full manner. ... **The Applicant further requests the Tribunal to add interest to the amounts awarded from the date of Judgement [No.] 914 until judgement is rendered in this application in fairness to the Applicant owing to the prolonged and undue delay by the Respondent.**"

Whereas the Respondent on 11 January 2001 submitted comments on the Applicant's written observations, and, on 15 February 2001, the Applicant submitted further comments and a request for production of additional documents;

Whereas on 7 June 2001, the Applicant submitted a number of documents;

Whereas the facts in the case are as follows:

The Applicant entered the service of the Organization on 26 June 1969 as a Records Management Officer at the P-2 level in the Registry Section, Communications, Archives and Record Service, Office of General Services, on a probationary appointment. His appointment was made permanent on 1 July 1971. He was subsequently transferred and promoted several times until 2 November 1992, when he was re-assigned with his P-5 post to the Professional Staffing Service, as its Officer-in-Charge. The Applicant replaced a D-1 staff member who was Chief of the Professional Staffing Service and Deputy Director of the Recruitment and Placement Division, Office of Human Resources Management (OHRM).

On 27 May 1994, the Secretary-General proposed that the post of Chief, Professional Staffing Service, be reclassified from the P-5 to the D-1 level which was approved by the General Assembly. On 14 July 1994, the Director of Personnel issued an inter-office memorandum on the procedure to be used when filling reclassified posts. On 9 November 1994, the Assistant Secretary-General, OHRM, wrote to The Legal Counsel, that, "as regards

encumbered posts reclassified in the 1994-1995 budget, we review each case on its merits and apply flexibility, particularly when the incumbent has discharged higher level functions for more than a year".

On 31 March 1995, the Assistant Secretary-General, OHRM, met with the Applicant and asked him to take early retirement effective 30 June 1995. The Applicant declined the offer. On 11 May 1995, the Director, Recruitment and Placement Division, offered the Applicant an agreed termination, which he also declined. For the period of June through August 1995, the Applicant's responsibilities were extended as he was made Officer-in-Charge of the General Service Staffing Section, OHRM.

On 29 February 1996, the Director, Recruitment and Placement Division, informed the Applicant that his post had been proposed for abolition. On 12 March 1996, the Assistant Secretary-General, OHRM, asked the Applicant to consider a new offer of agreed termination, effective 30 April 1996, which offer the Applicant refused on 26 March 1996.

In a memorandum dated 22 March 1996, the Assistant Secretary-General, OHRM announced the lateral transfer of a D-1 staff member to the post of Deputy Director of the Specialist Services Division and Chief, Staff Development Services, OHRM. He also announced the appointment of a P-5 staff member to the new D-1 position of Chief, Common Systems and Specialist Services, OHRM, and her promotion to that level. This was subsequently confirmed on 16 April 1996, in information circular ST/IC/1996/26.

Also on 16 April 1996, the Assistant Secretary-General, OHRM, informed the Applicant that he was recommending that the Applicant be assigned to the Economic Commission for Africa (ECA) as Chief of Personnel. On 17 May 1996, the Assistant Secretary-General, OHRM, confirmed his assignment to ECA from 17 June 1996 until his retirement.

On 7 June 1996, the Applicant wrote to the Secretary-General seeking review of the decision to promote another staff member to the D-1 position without first circulating a vacancy announcement. The same day, he also submitted a request for suspension of action on his assignment to ECA to the Joint Appeals Board (JAB). The JAB held an oral hearing on 12 June 1996, but before it could make its recommendation, the Applicant was instructed to apply for a visa for Ethiopia. He completed his visa forms the following day, 13 June 1996. That afternoon, the United Nations travel agency informed the Applicant that arrangements had been made for

his departure to Addis Ababa at 9 a.m. the next day, *i.e.* 14 June 1996. As the Applicant's passport was being renewed and his visa had yet to be issued, he asked that his departure be delayed until 18 June 1996.

Also on 13 June 1996, the Applicant wrote to the Director, Operational Services Division, OHRM, informing him that the Medical Service had not cleared him for an assignment to Addis Ababa. On 14 June 1996, the Medical Officer who had considered the Applicant's case and approved four weeks medical leave informed the Applicant that the Assistant Secretary-General, OHRM, had telephoned her at home and, as a result, his initial medical leave had been reduced to two weeks.

On 14 June 1996, the Joint Appeals Board (JAB) recommended suspension of action. According to the JAB, "it would appear that extraneous factors had affected the contested decision ...Given the nature of the assignment envisaged for the [Applicant], especially the fact that there seemed to exist no definite plan regarding his future duties, he would find himself in a very demeaning and damaging situation".

On 18 June 1996, the Officer-in-Charge, Department of Administration and Management, advised the Applicant of the JAB's recommendation but informed him that his request for suspension of action was moot due to the his medical leave, and thus the Secretary-General had decided to take no further action.

On 26 July 1996, the Applicant lodged an appeal with the JAB. The Applicant's certified medical leave was extended until 26 August 1996, and he retired on 30 September 1996. The JAB adopted its report on 16 October 1997. Its considerations and recommendation read as follows:

> "***Considerations***
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> 69. The Panel first considered the question of the circulation of vacancy announcements for the ... D-1 posts. In that respect, the Panel observed that in a number of resolutions the General Assembly had directed that the Administration should announce 'all existing vacancies' (resolution 33/143 ...), and further required that 'Vacancy announcements for all posts shall be issued without delay as soon as vacancies are known' (resolution 35/210 ...). ...
>
> 70. The Panel observed that the Representative of the Secretary-General contended that the two D-1 posts had to be filled on an urgent basis to meet the exigencies of the

service resulting from the recent restructuring, and that 'OHRM simply could not afford the unavoidable delay of 4 to 6 months that would have resulted from announcing these vacancies'. In that respect, the Panel noted that the Administrative Tribunal had expressed the view, in its Judgement No. 362, *Williamson*, that a waiver of the vacancy announcement 'might be justified in the light of the responsibilities of the Organization under the Charter in an extraordinary emergency situation, for example, a peacekeeping or natural disaster relief operation.' The Panel did not consider that the decision to proceed with the restructuring referred to in the reply of the Representative of the Secretary-General to the appeal created 'an extraordinary emergency situation' within the meaning of the above-mentioned judgement, and therefore justified the non-distribution of vacancy announcements as mandated by [administrative instruction] ST/AI/390 [of 15 November 1993].

71. The Panel then observed that the Appellant had complained that [he] had not been fully and fairly considered for either D-1 position. ... In that respect, the Panel noted that, in its Judgement No. 362, *Williamson*, the Administrative Tribunal had stated, *inter alia*, [that] 'the Administration must be able to make at least a minimal showing that the staff member's statutory right was honoured in good faith in that the Administration gave the "fullest regard" to it,' and had ruled, in its Judgement No. 447, *Abbas*, that the burden of proof of having given consideration was on the Respondent ...

72. In the present case, the Panel found that except for the assertion that the [Assistant Secretary-General] ASG/OHRM was familiar with the qualifications, merit and experience of all his senior staff at the P-5 level and above and had considered all P-5 candidates in OHRM, there was no evidence of any merit that the Appellant had been properly considered. ... In the circumstances, doubts persisted that the Appellant had been accorded due process and that, in any event, the required degree of consideration had been given to [him].

73. The Panel considered, however, that even if the Appellant had been given full consideration, nothing indicated that [he] would have automatically been selected for one of the posts. It was therefore difficult for the Panel to entertain any claim on that account.

74. ... [T]he Panel ... felt that the Appellant must be compensated as a consequence of the failure of the Administration to abide by the procedures laid down by the General Assembly, the Administrative Tribunal and the Secretary-General.

Recommendation

75. The Panel *unanimously recommends* that because of that failure the ... Appellant [is] entitled to compensation. It unanimously agrees to recommend that the amount of compensation for [the] Appellant should be equal to two months' base salary at the time the two posts mentioned in [the Assistant Secretary-General for Human Resources Management's] memorandum of 22 March 1996 had been filled. In

addition, the Panel *recommends unanimously* that the Appellant ... should receive an additional month's salary in compensation because of the aggravating circumstances surrounding the denial to him of the opportunity to receive full and fair consideration for the vacant post for which he was eligible, namely, his removal from the post he had encumbered and the attempt to transfer him, when he was close to retirement, to a post in the field."

On 30 January 1998, the Under-Secretary-General for Management transmitted a copy of the JAB report to the Applicant and informed him as follows:

"...

The Secretary-General ... has taken note of the findings of the Panel that the non-distribution of the vacancy announcements for the posts in issue was not justified by the circumstances and that you did not receive the required degree of consideration for these posts. He has also noted the Panel's statement that, even if you had been given full consideration, nothing indicated that you would have automatically been selected for one of the posts. He has further noted the Panel's determination that there were aggravating circumstances surrounding your case.

The Secretary-General acknowledges the irregularities which occurred in the filling of the posts in issue and has taken note of the Panel's view that compensation be awarded. He has decided to accept the recommendation of the Panel regarding compensation and, accordingly, has decided that you [should] receive compensation in the amount of three months' net base salary, calculated as of 25 March 1996, the date the two posts in issue were filled.

..."

On 27 October 1998, the Applicant filed the above-referenced Application with the Tribunal.

Whereas the Applicant's principal contentions are:

1. The Respondent failed to act in accordance with the administrative issuances which he himself had promulgated for the promotion of staff members; violated established procedures; and, exceeded his authority.

2. The Applicant had an acquired right to be considered for promotion in a full and fair manner.

3. The Applicant was entitled to be placed in another post before someone else was promoted to the post he encumbered.

4. The Applicant was entitled to have his latest performance evaluation report (PER) presented to the Appointments and Promotion Board (the APB).

5. The Respondent's actions were arbitrary and seriously damaged the Applicant's career and pension rights.

6. The Applicant's assignment to ECA was abuse of authority motivated by vindictiveness, harassment and prejudice.

7. The JAB erred in not considering the Applicant's incumbency and thus made recommendations which were not commensurate with the gravity of the injury suffered by the Applicant.

Whereas the Respondent's principal contentions are:

1. The need to fill the position in question on an urgent basis was necessitated by the exigencies of service. The failure to advertise the post did not prejudice the Applicant's chances for promotion.

2. The fact that the Applicant was the incumbent of the post in issue did not entitle him to any priority or preferential treatment as far as consideration for promotion was concerned.

3. An appeal against the Applicant's non-promotion in October 1994 is time-barred.

4. The decision to assign the Applicant to ECA did not violate his rights as it was within the discretionary authority of the Administration. Furthermore, as the assignment did not take place, the decision was never implemented.

5. The Applicant has been adequately compensated for the procedural irregularities in his case.

The Tribunal, having deliberated from 28 June to 26 July 2001, now pronounces the following judgement:

I. The instant case is similar to that decided in Judgement No. 914, *Gordon and Pelanne* (1999), which arose from the same basic facts. The Applicant complains that, notwithstanding the fact that the JAB granted him a higher amount of compensation than the other Applicants, the amount awarded was grossly insufficient and did not reflect all the circumstances of his case.

II. The Applicant encumbered a P-5 post which was upgraded to the D-1 level. He claims that the Administration was under a legal obligation to promote him to that new level, invoking the interoffice memoranda of 14 July and 9 November 1994 from the Director of Personnel and the Assistant Secretary-General, OHRM, respectively. The Tribunal cannot agree with that conclusion. The first of the above-mentioned memoranda extended the obligation of circulating vacancy announcements to posts which had been reclassified to a higher level and were to be filled on a long-term basis. The second memorandum reaffirmed that obligation but qualified it by asserting that the Administration could "review each case on its merits and apply flexibility, particularly when the incumbent has discharged the higher level functions for more than one year". In other words, both documents affirmed that, in certain instances, the Administration could act with flexibility and directly appoint the incumbent of the post, i.e. without circulating vacancy announcements. In the present case, the reverse occurred: the Applicant was not appointed by the Administration to fill the reclassified post in spite of being the incumbent. Therefore, while the documents quoted reaffirm the obligation of the Administration to circulate vacancy announcements, they do not in the least require the Administration to appoint an incumbent staff member to a reclassified post. The Administration had no such obligation.

III. The Tribunal recalls the situation as it was on 22 March 1996. On that date, the Assistant Secretary-General, OHRM, informed all Heads of Departments and Offices of the structural adjustment within OHRM and announced (a) that a staff member at the D-1 level was designated as Deputy Director of the Specialist Services Division and Chief, Staff Development Services, and (b) another staff member at the P-5 level was promoted to the D-1 level post of Chief, Common System and Specialist Services, which had been newly established. Vacancy announcements were circulated for neither post.

The Applicant contends that these decisions violated the relevant provisions of ST/AI/390 as well as the policy contained in the memoranda of 14 July and 9 November 1994. In particular, he asserts that "[t]he Assistant Secretary-General for HRM should either have had the Applicant promoted, being incumbent of the post according to the procedures he himself had established (...) or follow the procedure under ST/AI/390 by issuing a vacancy announcement to fill the post".

IV. The Respondent does not deny that the usual procedures were not followed in the filling of the two posts and even admits that there were irregularities. This was indicated in the Respondent's letter to the Applicant pursuant to the recommendation of the JAB, wherein "the Secretary-General acknowledge[d] the irregularities which occurred in the filling of the posts in issue" and granted compensation to the Applicant. However, the Respondent now contends that:

> "the vacancies in question were filled at the time of the restructuring of OHRM and the consequent need for OHRM to manage the deep budget cuts that were being effected as a result of [the] General Assembly adopting resolutions 50/214 and 50/215. All parts of OHRM had to be fully functional and managed during that crucial period of time. OHRM simply could not afford the unavoidable delay of 4 to 6 months that would have resulted from announcing these two vacancies and following the normal placement and promotion procedures. The urgent exigencies of service required that the two D-1 posts be filled on an expedited basis. This was done in the interest of the Organization."

V. The Respondent also alleges that "since the Applicant was a senior officer in OHRM and the [Assistant Secretary-General], OHRM, was well acquainted with his qualifications and experience, the failure to advertise the posts in question did not prejudice his chances for promotion". The Tribunal cannot but quote here a paragraph from *Gordon and Pelanne*:

> "The Applicants also point out that there is a certain irony in the Assistant Secretary-General for Human Resources Management writing in a memorandum of August 21, 1995 to the Director, Field Administration and Logistics Division

> that 'Missions are required to ensure the existence of suitable procedures to conduct their internal promotion review in a fair and objective manner', while at the same time committing irregularities in filling two D-1 posts at Headquarters, in his own department."

VI. The Tribunal also said in that Judgement that:

> "The JAB had already found that the urgency alleged by the Respondent was not of sufficient magnitude to overcome the need to issue a vacancy announcement in the light of the standard set by the Administrative Tribunal in its Judgement No 362, *Williamson* (1986). In *Williamson*, the Tribunal held that waiver of a vacancy announcement 'might be justified in the light of the responsibilities of the Organization under the Charter in an extraordinary emergency situation, for example, a peacekeeping or natural disaster relief operation'. The JAB concluded that the 'urgent exigencies' allegedly confronting OHRM did not constitute an 'extraordinary emergency situation' in accordance with the standard enunciated in *Williamson*."

This reasoning is applicable to the present case. The Tribunal believes that the following findings in *Gordon and Pelanne* are also pertinent:

> "The Tribunal agrees with the JAB that the urgency alleged by the Respondent to justify his actions was not so extraordinary in nature that the Administration could avoid the procedures that all staff members are entitled to expect. The Tribunal is satisfied that under the standard established in *Williamson*, no 'extraordinary emergency situation' existed that might have justified the suspension of proper procedures for promotion. The Tribunal is of the view that the Assistant Secretary-General for Human Resources Management could have found other ways of coping with the reorganization of his Department, without having to breach the procedures guaranteeing due process for the Applicant. If, as the Respondent claims, the allegedly 'urgent' circumstances could be considered an 'extraordinary emergency situation' justifying a departure from the rules, such an excuse could be invoked so frequently that the rules would seldom be followed. Such a result would lead to a complete breakdown of the promotion system, would severely affect career development and would lead to wholesale favouritism. Consequently, staff morale would suffer, to say the least."

VII. In his request for compensation, the Applicant places great emphasis on the quality of his incumbency in the D-1 post. The Tribunal has already expressed its view that there is no

legal obligation for the Administration to appoint a staff member who is incumbent to a post, but even the Respondent acknowledges that "the Applicant was entitled to full and fair consideration for promotion". The Tribunal is satisfied that this obligation is even stricter regarding a staff member who is an incumbent with more than one year in the post. In addition, while it may fall short of being a legal obligation to appoint an incumbent in all cases, it is clear that under the applicable Rules, incumbents are entitled to some special consideration. This is apparent in the above-mentioned memoranda of 14 July and 9 November 1994 and in view of the Applicant's contention - never denied by the Respondent - that the Administration appointed incumbents in 34 of the 35 available vacancies in the same promotion exercise.

The Tribunal finds that it is obvious that the Administration should have explained why the Applicant was passed over in favour of another staff member aspiring to the same post. It finds it equally obvious, however, that the Applicant did not receive "full and fair consideration" and that the APB was not even given the necessary elements for it to consider his candidacy, in particular the Applicant's PER, which had not been completed when the D-1 post was filled. The Tribunal considers that all the evidence points to a conclusion that the Administration did everything possible to take the Applicant out of the picture.

VIII. The Respondent submits, in harmony with the JAB's conclusions, that "even if [the Applicant] had been given full consideration, nothing indicated that [he] would have been selected for the post". The Tribunal must repeat here what it said in *Gordon and Pelanne* wherein it found that reasoning "unpersuasive":

> "As a result of the improper procedure used by the Respondent, the Applicants were automatically excluded from an opportunity to compete for the posts. The Respondent's disregard of proper procedures was detrimental to the Applicants' career development and caused the frustration and mental anguish of not being considered for posts for which they might have been qualified. Moreover, the Tribunal cannot take lightly the violation of due process by the Respondent, particularly when ST/AI/390 (superseded in 1996 by ST/AI/413) was enacted by him in order to prevent the very practices to which he resorted in this case. The Tribunal finds that in light of the extraordinary circumstances described above, the Applicants are entitled to a larger amount of compensation than was recommended by the JAB and accepted by the Respondent."

IX. The Tribunal is satisfied that the quality of the Applicant's incumbency was an aggravating factor in his case. Even more egregious, however, was the harassment and manipulation to which the Applicant was submitted.

The Respondent adopted a "carrot and stick" policy towards the Applicant as soon as it was decided to appoint other staff members to the D-1 posts. First, the Applicant was offered an agreed separation with favourable terms. When that approach failed, however, the Applicant was subjected to indignity and harassment. He was made to move office on short notice twice, the second time to a room bare other than for a desk. Finally, on 16 May 1996, he was informed that he was to be assigned to ECA in Addis Ababa until his retirement, which was less than five months away. The Applicant submitted a request for suspension of action on this assignment to the JAB, which held an oral hearing on 12 June 1996, but before it could issue its recommendation the Applicant was instructed to apply for a visa for Ethiopia. On 13 June 1996, the United Nations travel agency informed the Applicant that arrangements had been made for his departure to Addis Ababa at 9 a.m. the next day, *i.e.* 14 June 1996. The Applicant informed the Director, Operational Services Division, OHRM, that the United Nations Medical Service had not cleared him for an assignment to Addis Ababa. On 14 June 1996, the Medical Officer who had considered the Applicant's case and approved four weeks medical leave informed the Applicant that the Assistant Secretary-General, OHRM, had telephoned her at home concerning the Applicant, and that his initial medical leave had been reduced to two weeks. The Applicant's certified medical leave commenced that day, and was subsequently extended. He did not return to work until 26 August 1996, and received no further assignments until his separation from service on 30 September 1996, upon his retirement at the age of sixty.

The Tribunal is appalled at this blatant harassment of the Applicant and, in light of all of these aggravating factors, has decided to award the Applicant 27 months net base salary, which amounts to greater compensation than the two years net base salary which is normally the maximum amount awarded by the Tribunal in accordance with the Statute. The Tribunal is satisfied that such an award is justified, as the harassment endured by the Applicant constitutes "exceptional circumstances" in accordance with Article 11 of the Statute and Rules of the

Tribunal. It notes that the JAB awarded the Applicant three months net base salary, 50 per cent more than the two months net base salary awarded to the Applicants in *Gordon and Pelanne*. The Tribunal agrees that such a percentage increase is justifiable under the circumstances and has done likewise. As the Tribunal awarded the Applicants in *Gordon and Pelanne* compensation of 18 months net base salary, a 50 per cent increase thereof results in an award of 27 months net base salary for the Applicant.

X. The Tribunal notes that the Applicant has requested that the 1996 edition of the Official Document of the General Assembly entitled "List of Staff of the United Nations Secretariat", ST/ADM/R.49, be amended to include his name which, he says, had been omitted even though he was still a serving staff member. The Tribunal is sympathetic to the slight felt by the Applicant, but considers that ordering the re-publication of a document which has been obsolete for several years is unjustifiably expensive and would serve no useful purpose. The Tribunal finds that this Judgement should be sufficient satisfaction for the slight endured.

XI. As in *Gordon and Pelanne*, the Tribunal feels compelled to add that this is such a serious case of maladministration that consideration should be given to invoking staff rule 112.3, which provides as follows:

> "Any staff member may be required to reimburse the United Nations either partially or in full for any financial loss suffered by the United Nations as a result of the staff member's negligence or of his or her having violated any regulation, rule or administrative instruction."

XII. In view of the foregoing, the Tribunal:

(i) Orders the Respondent to pay the Applicant compensation in the amount of 27 months of his net base salary, at the rate in effect on the date of his separation from service; and,

(ii) Rejects all other pleas.

(Signatures)

Julio BARBOZA
First Vice-President, presiding

Kevin HAUGH
Second Vice-President

Omer Yousif BIREEDO
Member

Geneva, 26 July 2001

Maritza STRUYVENBERG
Executive Secretary